THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.34258 OF 1998

DATED: 24-09-2007

Between :

Bathula Syam Sekhara Rao … Petitioner

And

1. The Government of A.P., rep. By its Secretary,
   Home Department, Secretariat, Hyderabad.,
   And 4 others. .. Respondents

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ORDER :

This writ petition is filed seeking a declaration that the order dated 31-8-1998 passed by the Sub-collector, Rampachodavaram, E.G. District in CMA.No.1 of 1998 as arbitrary, illegal and contrary to G.O.Ms.No.406, Home Department, dated 27-6-1990.

The facts, in brief, are as under :

The 5th respondent herein fled O.S.No.2 of 1988 before the Agent to the Government (District Collector, E.G. District) seeking declaration of tile and permanent injunction against the petitioner herein in respect of a house-site bearing No.4-129 situated in Rampachodavaram, E.G. District. After hearing both the parties, O.S.No.2 of 1988 was decreed on 24-11-1995 thereby restraining the petitioner herein from interfering with the petition schedule property.

However, when the 5th respondent filed an application for implementation of the decree dated 24-11-1995, the 4th respondent – Mandal Revenue Officer, Rampachodavaram erroneously recorded a finding that one Audiah who was not a party to the proceedings was in possession. Aggrieved by the same, the 5th respondent filed CMA.No.1 of 1998 before the 3rd respondent.

Contending that the 3rd respondent has no jurisdiction to entertain the said Appeal in view of G.O.Ms.No.406, dated 27-6-1990, the petitioner filed W.P.No.20787 of 1998. The said writ petition was disposed of by this Court by order dated 30-7-1998 directing the 3rd respondent to consider all the objections raised including the

question of jurisdiction and pass appropriate orders thereupon in accordance with law.

Pursuant thereto, the 3rd respondent, having heard both the parties, passed the impugned order dated 31-8-1998 which is under challenge in this writ petition.

I have heard the learned Counsel for both the parties.

A perusal of the impugned order dated 31-8-1998 in CMA.No.1 of 1998 shows that none of the objections raised by the petitioner, particularly the question regarding the very maintainability of the Appeal were considered by the 3rd respondent. Moreover, no reasons are assigned in support of his direction to initiate steps against the petitioner herein under Regulation 1 of 1959. Hence, I find force in the submission of the learned counsel for the petitioner that the matter requires re-consideration in terms of the order of this Court in W.P.No.20787 of 1998.

Accordingly, the order dated 31-8-1998 is hereby set aside and the Writ Petition is disposed of with a direction to the 3rd respondent to hear both the parties and pass appropriate orders afresh in accordance with law. No costs.

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G. ROHINI, J.

Dt. 24–09-2007

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